

INITIAL STATEMENT OF REASONS

a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

The numbering format of Section 86001 et seq. is being revised to be consistent with Title 22 regulations.

New Section 85001(a)(2)

Specific Purpose:

This section is necessary to adopt the definition of the term “Advance Health Care Directive” and maintain consistency with the Residential Care Facilities for the Elderly (RCFE) hospice regulations.

Factual Basis:

Assembly Bill (AB) 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Defining the term “Advance Health Care Directive” provides clarification for licensees, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Section 85001(a)(3)

Specific Purpose:

This section is necessary to adopt the definition of the term “Allowable Health Condition” and maintain consistency with the RCFE hospice regulations.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Defining the term “Allowable Health Condition” provides clarification for licensees, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Section 85001(a)(4)

Specific Purpose:

This section is necessary to adopt the definition of the term “Appropriately Skilled Professional” and maintain consistency with the RCFE hospice regulations.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Defining the term “Appropriately Skilled Professional” provides clarification for licensees, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Section 85001(d)(1)

Specific Purpose:

This section is necessary to adopt the definition of the term “Do-Not-Resuscitate Form” and maintain consistency with the RCFE hospice regulations.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Defining the term “Do-Not-Resuscitate Form” provides clarification for licensees, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Section 85005(f)(1)

Specific Purpose:

This section is necessary to adopt the definition of the term “Facility Hospice Care Waiver” and maintain consistency with the RCFE hospice regulations.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Defining the term “Facility Hospice Care Waiver” provides clarification for licensees, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Section 85001(h)(1)

Specific Purpose:

This section is necessary to adopt the definition of the term “Health Care Provider” and maintain consistency with the RCFE hospice regulations.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Defining the term “Health Care Provider” provides clarification for licensees, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Section 85001(h)(2)

Specific Purpose:

This section is necessary to adopt the definition of the term “Health Care Surrogate Decision Maker” and maintain consistency with the RCFE hospice regulations.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Defining the term “Health Care Surrogate Decision Maker” provides clarification for licensees, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Section 85001(h)(3)

Specific Purpose:

This section is necessary to adopt the definition of the term “Hospice or Hospice Agency” and maintain consistency with the RCFE hospice regulations.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Defining the term “Hospice or Hospice Agency” provides clarification for licensees, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Section 85001(h)(4)

Specific Purpose:

This section is necessary to adopt the definition of the term “Hospice Care Plan” and maintain consistency with the RCFE hospice regulations.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Defining the term “Hospice Care Plan” provides clarification for licensees, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Section 85001(t)(1)

Specific Purpose:

This section is necessary to adopt the definition of the term “Terminally Ill Client” and maintain consistency with the RCFE hospice regulations.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Defining the term “Terminally Ill Client” provides clarification for licensees, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Section 85075.1 - Title

Specific Purpose:

This section is necessary to adopt the phrase "HOSPICE CARE" as the title for Section 85075.1.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Adopting this phrase as the title provides clarification for licensees, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Sections 85075.1(a) and (a)(1) through (a)(6)

Specific Purpose:

These sections clarify that a licensee must meet all six conditions specified in Sections 85075.1(a)(1) through (6) to be permitted to retain terminally ill clients who receive hospice services in the facility.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Specifying that a licensee must meet certain conditions to retain clients who receive hospice services, provides clarification for licensees, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Sections 85075.1(b) and (b)(1) through (b)(7)

Specific Purpose:

These sections require that a hospice care plan shall be maintained in the facility for each hospice client. To be current and complete, the plan must include all of the information identified in Sections 85075.1(b)(1) through (7).

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Specifying that each client's plan include all of the information identified provides clarification for licensees, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Section 85075.1(c)

Specific Purpose:

This section clarifies that it is the responsibility of the licensee to ensure that the plan is in compliance with the requirements of Section 85075.1 and other Adult Residential Facility (ARF) regulations in Chapters 1 and 6 of Title 22, California Code of Regulations (CCR).

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Specifying that it is the licensee's responsibility to ensure that the plan complies with this section and other ARF regulations provides clarification for licensees, aids in the implementation of the Mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Section 85075.1(d)

Specific Purpose:

This section clarifies that it is the responsibility of the licensee to ensure that the Plan is current, accurately matches the services being provided, and that the client's care needs are being met at all times.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Specifying the licensee's responsibility provides clarification for licensees, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Section 85075.1(e)

Specific Purpose:

This section specifies that the Department may require the licensee to revise the plan if the plan is not fully implemented, or as written, the plan does not protect the health and safety of any facility client.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Specifically stating that the Department may require that the licensee revise the plan due to certain deficiencies provides clarification for licensees, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Section 85075.1(f)

Specific Purpose:

This section specifies that the licensee shall maintain a record of all hospice-related training provided to the licensee or facility staff for a period of three years.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Specifying the number of years to

maintain a record of all hospice-related training provided to the licensee or facility staff provides clarification and maintains consistency with the existing RCFE hospice regulations.

New Section 85075.1(f)(1)

Specific Purpose:

This section specifies that the hospice-related training record shall specify the names and credentials of the trainer, the persons in attendance, the subject matter, and date and duration of the training.

Factual Basis:

Specifying the information required in the hospice-related training record provides clarification for licensees and maintains consistency with the existing RCFE hospice regulations.

New Section 85075.1(f)(2)

Specific Purpose:

This section specifies that the Department shall be entitled to inspect, audit, remove if necessary, and copy the hospice-related training record upon demand during normal business hours.

Factual Basis:

Specifying the inspection authority of the Department provides clarification and maintains consistency with the existing RCFE hospice regulations.

New Section 85075.1(g)

Specific Purpose:

This section specifies that the licensee shall, in addition to complying with the reporting requirements specified in Sections 80061 and 85061, submit a report to the Department when a terminally ill client's hospice services are interrupted or discontinued for reasons other than the death of the client. The licensee shall also report any deviation from the client's plan, or other incident, which threatens the health and safety of any client.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Specifying that the licensee comply with the reporting requirements specified in Sections 80061 and 85061 and other reports

that must be made to the Department due to certain circumstances provides clarification for licensees, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Sections 85075.1(g)(1) and (g)(1)(A) through (g)(1)(D)

Specific Purpose:

These sections clarify that the report the licensee is required to submit per Section 85075.1(g) shall be made by telephone within one working day, and in writing within five working days. The report and shall specify all of the following information:

- The name, age, and gender of each affected client;
- The date and nature of the event and explanatory background information leading up to the event;
- The name and business telephone number of the Hospice; and

Any actions taken by the licensee and any other parties to resolve the incident and to prevent similar occurrences

Factual Basis:

- AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients.

Specifying that the required report include all listed information aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Sections 85075.1(h) and (h)(1) through (h)(5)(A)

Specific Purpose:

These sections require that the licensee shall maintain specific information in the client's record for each client receiving hospice services.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Specifying that the licensee maintain certain information for each client provides clarification for licensees, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Section 85075.1(i)

Specific Purpose:

This section requires that any prescription medications no longer needed by the client be disposed of in accordance with Section 80075(o).

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Specifying how licensees dispose of any prescription medications provides clarification for licensees, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Sections 85075.1(j) and (j)(1)

Specific Purpose:

These sections require that care for the client's health condition be addressed in the plan and, when caring for the client, no facility staff, other than an appropriately skilled health professional, shall perform any health care procedure that, under law, may be performed only by an appropriately skilled professional.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Specifying who is allowed to care for a client's health condition provides clarification for licensees, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Section 85075.1(k)

Specific Purpose:

This section requires that the licensee centrally store the medications that are for each client receiving hospice services in the facility and maintain a record of those dosages.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. To centrally store medications and maintain a record of dosages provides clarification for licensees, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Section 85075.1(l)

Specific Purpose:

This section clarifies that bedridden hospice clients may reside in the facility provided that within 48 hours the licensee ensures that the local fire authority is notified of the estimated length of time the client will be bedridden.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. By clarifying when the fire department must be notified of the estimated length of time the client will be bedridden, this section aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Section 85075.1(m)

Specific Purpose:

This section provides that the Department may require the relocation of a client whose needs for personal care and supervision or health care are not being met in the facility.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. By clarifying the circumstances when the Department may require the relocation of a client this section aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Section 85075.2 - Title

Specific Purpose:

This section is necessary to adopt the phrase "FACILITY HOSPICE CARE WAIVER" as the title for Section 85075.2.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Adopting this phrase as the title for this section provides clarification for licensees, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Sections 85075.2(a) and (a)(1) through (a)(4)

Specific Purpose:

These sections require licensees to submit a written request to the Department for a Facility Hospice Care Waiver to retain terminally ill clients and permit them to receive care from hospice. The written request shall include the four specific areas identified in Sections 85075.2(a)(1) through (a)(4).

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Specifying that licensees are required to submit a written request, that includes certain specific information, provides clarification for the retention of terminally ill clients, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Section 85075.2(b)

Specific Purpose:

This section requires the Department to deny a waiver request if the licensee is not in substantial compliance with the licensing regulations governing ARFs.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Specifying that the Department is required to deny a waiver request if the licensee is not in substantial compliance with the licensing regulations governing ARFs provides clarification for licensees, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Section 85075.2(c)

Specific Purpose:

This section specifies that the Department shall not approve a waiver request unless the licensee demonstrates the ability to meet the care and supervision needs of terminally ill clients and states a willingness to provide additional care staff if required by the plan.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Stating conditions when the

Department will not approve a waiver request provides clarification, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Sections 85075.2(d), (d)(1), (d)(1)(A), and (d)(2)

Specific Purpose

These sections clarify that a waiver shall include terms and conditions identified in Sections 85075.2(d)(1), (d)(1)(A), and (d)(2).

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. The terms and conditions of the waiver provides clarification for licensees, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Sections 85075.2(e), (e)(1), (e)(2), and (e)(2)(A)

Specific Purpose:

These sections require that the Department notify the applicant or the licensee, in writing, within 30 days of receipt of the waiver request that the request has been received and 1) accepted for consideration or, if the request is deficient, 2) describe what additional information is required for the request to be acceptable, and a timeframe for submitting this needed information to the Department.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. By stating a timeframe for Department response to a waiver request. This section provides clarification, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations. This section also is necessary to comply with the Permit Reform Act - Section 15376 of the Government Code.

New Section 85075.3 - Title

Specific Purpose:

This section is necessary to adopt the phrase "ADVANCE HEALTH CARE DIRECTIVES" as the title for Section 85075.3.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Adopting this phrase as the title provides clarification, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

New Section 85075.3(a)

Specific Purpose:

This section specifies that a client shall be permitted to have an Advance Health Care Directive in their facility file.

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Specifying that a client shall be permitted to have an Advance Health Care Directive in their facility file provides clarification for licensees, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

Section 85075.3(a) is also consistent with Section 4705, Probate Code.

New Sections 85075.3(b), (b)(1) and (b)(2)

Specific Purpose:

These sections specify that if a client experiences a medical emergency and has an Advance Health Care Directive on file, the facility staff shall respond in one of the two ways documented in Sections (b)(1) and (b)(2).

Factual Basis:

AB 1108 (Chapter 410, Statutes of 1999) requires facility standards and client safeguards from licensees when caring for terminally ill clients. Specifying how the facility staff shall respond if a client experiences a medical emergency and has an Advance Health Care Directive on file provides clarification, aids in the implementation of the mandated facility standards/client safeguards, and maintains consistency with the existing RCFE hospice regulations.

Section 85075.4

Specific Purpose:

To renumber Section 85075.3 as Section 85075.4.

Factual Basis:

This amendment is necessary for numerical continuity and consistency.

b) Identification of Documents Upon Which Department Is Relying

AB 1108 (Chapter 410, Statutes of 1999)

c) Local Mandate Statement

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated costs in these regulations that require state reimbursement under Section 17500 et seq. of the Government Code.

d) Statement of Alternatives Considered

The Department must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

e) Statement of significant Adverse Economic Impact on Business

The Department has made an initial determination that the proposed action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.